

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THEODORE D. SMITH,

Defendant.

Case No. 22-CR-75-3-JPS

ORDER

On February 28, 2023, the Government filed a twelve-count Second Superseding Indictment charging Defendant with violations of 18 U.S.C. §§ 1951(a) and 2(a) (Counts Six and Eight), violations of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2(a) (Counts Seven and Nine), and a violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)C, and 846 (Count 10). ECF No. 58.¹ On November 9, 2023, the parties filed a plea agreement, indicating Defendant intended to plead guilty to Counts Six, Seven, and Eight of the Second Superseding Indictment. ECF No. 171. The plea agreement further indicated that the Government would move to dismiss the remaining counts in the Second Superseding Indictment as to Defendant at the time of sentencing. *Id.* at 5.

The parties appeared before Magistrate Judge William E. Duffin on November 21, 2023 to conduct a plea colloquy pursuant to Federal Rule of Criminal Procedure 11. ECF No. 172. Defendant entered a plea of guilty as to Counts Six, Seven, and Eight of the Second Superseding Indictment. *Id.*

¹Defendant was not named as a party to this case until the Second Superseding Indictment was filed.

at 1. After cautioning and examining Defendant under oath concerning each of the subjects mentioned in Rule 11, Magistrate Judge Duffin determined that the guilty plea was knowing and voluntary, and that the offenses charged were supported by an independent factual basis containing each of the essential elements of the offenses. *Id.*

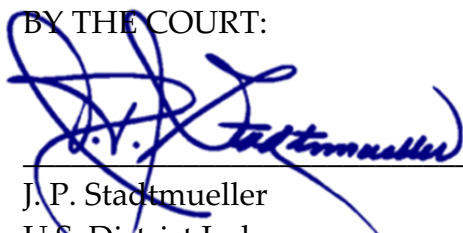
The same day, Magistrate Judge Duffin filed a Report and Recommendation with this Court, recommending that: (1) Defendant's plea of guilty be accepted; (2) a presentence investigation report be prepared; and (3) Defendant be adjudicated guilty and have a sentence imposed accordingly. ECF No. 173. Pursuant to General Local Rule 72(c), 28 U.S.C. § 636(b)(1)(B), and Federal Rule of Criminal Procedure 59(b), the parties were advised that written objections to that recommendation, or any part thereof, could be filed within fourteen days of the date of service of the recommendation. *Id.* To date, no party has filed such an objection. The Court has considered Magistrate Judge Duffin's recommendation and, having received no objection thereto, will adopt it.

Accordingly,

IT IS ORDERED that Magistrate Judge William E. Duffin's Report and Recommendation, ECF No. 173, be and the same is hereby **ADOPTED**.

Dated at Milwaukee, Wisconsin, this 7th day of December, 2023.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge